

BILZIN SUMBERG BAENA PRICE & AXELROD LLP

A PARTNERSHIP OF PROFESSIONAL ASSOCIATIONS

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September 28, 2004

VIA FACSIMILE

Diane O'Quinn Williams, Director
Department of Planning and Zoning
111 N.W. First Street, 11th Floor
Miami, FL 33128

Re: Roy R. Lustig, Trustee
Public Hearing Application No. Z04-57

Dear Ms. O'Quinn Williams:

SUPPLEMENTAL LETTER OF INTENT

Our office received a telephone call yesterday afternoon from your office in connection with the above-referenced public hearing application. Specifically, the Department has issued a recommendation of approval of the rezoning of the property to RU-5A in connection with the above public hearing, noting that the Comprehensive Development Master Plan ("CDMP") allows office uses to be:

approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations set forth in the CDMP. . . . The proposed parcel fronts on a heavily traveled roadway (NE 186 Street), the lot size does not exceed one acre, was platted prior to March 25, 1991, and the residential area is not zoned, developed or designated Estate Density. . . . [T]he requested RU-5A zoning would conform with the general intent of the Ojus Charette. . . . Staff is of the opinion that rezoning the subject property to RU-5A conforms to the criteria stated in the Land Use Element for approval of these uses, and as such, would permit a development that is consistent with the CDMP.

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Pages 10-11 County Recommendation dated finalized 9/01/04.

The Department has now requested that we provide additional support as to why the subject property, which fronts on Miami Gardens Drive, adjacent to three lanes of east bound traffic, separated by a divided median, and two lanes of westbound traffic, has become less desirable for residential use.

In the 1960s, the eastbound roadway in front of the property was widened to three lanes to create a total of a five-lane roadway. Additionally, in 1995, the City of Aventura incorporated. Since that time, there has been a substantial increase in development within the City of Aventura. Further, Miami Gardens Drive eastbound recently opened, east of Biscayne Boulevard, to allow eastbound traffic on Miami Gardens Drive to cross Biscayne Boulevard.

The opening of Miami Gardens Drive, east of US 1, along with the development of the City of Aventura, and the redesignation of the Lochmann's Plaza area just east of Biscayne Boulevard as the City of Aventura Town Center, has transformed Miami Gardens Drive into the main gateway to the Aventura community. The Town Center development is currently approved and will consist of office, residential and commercial uses. However, this development has not begun to impact this area.

Based on the above, the traffic along Miami Gardens Drive will clearly increase in front of this particular property.

Based on the current information obtained from the Miami-Dade County Concurrency Division, Station 0150 is the relevant count station governing the subject property.

According to the information obtained from Miami-Dade County, since July 1999, the number of trips has increased from 2,570 to 3,102 on this segment of the roadway. This represents over a 20% increase in the direct traffic on this segment of the road. Additionally, there are 1,467 trips allocated to upcoming development. When combining the additional trips slated for this segment of the roadway with the current trips (3102 + 1467), that would represent an approximate 78% increase in the number of 1999 trips along this segment over the last five years. Additionally, another telling fact, is that the subject property has not been developed for residential use.

Last evening, I visited the subject property has impacted the property. If the Department were to have any representatives stand at the property, it is unequivocal that staff would come to the conclusion that noise and traffic has impacted the property.

As the Department is aware, the current applicant has also an application pending for 2420 N.E. 186th Street, the property to the east of the subject property. Beginning from the eastern edge of the property located at 2420 N.E. 186th Street, the properties continuing east on

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the south side of Miami Gardens Drive to US 1 have been developed for office and commercial use.

The test under the CDMP is not whether anyone would live in a residence on the property, or whether it is feasible to develop the subject property for residential use, but whether the property has become "less desirable due to inadequate setbacks from roadway traffic and noise or due to a mixture of nonresidential uses or activities in the vicinity." CDMP 1-29 (emphasis supplied). Our client meets not one, but both of these criteria.

Again, it is telling that the property has not been developed for residential use. While we recognize that there are certain residential properties fronting on the north side of Miami Gardens Drive, to the east of the Oleta River, this is the sole remaining residence on the south side of Miami Gardens Drive. The residence on this property was constructed in 1967, and no longer remains attractive for residential development.

A review of the properties located east of the major bend that occurs on N.E. 22nd Avenue, on Miami Gardens Drive, reveals that no new residential development fronting on Miami Gardens Drive has been constructed in approximately 28 years. Additionally, those residences front on the north side of Miami Gardens Drive, which are two lanes from N.E. 22nd Avenue to West Dixie Highway. The subject property is on the south side of the median and abuts the three lanes of the five-lane divided roadway.

The following represents the requisite criteria under this Section of the CDMP:

CRITERIA	HOW SATISFIED
Major Roadway	Miami Gardens Drive is designated as a major roadway on the CDMP Future Land Use Plan Map
Less desirable due to inadequate setback from roadway traffic and noise OR due to a mixture of non-residential uses or activities in vicinity	BOTH: Widening of Miami Gardens to 3 lanes in front of property (for a total of 5 lanes), along with increase in traffic from City of Aventura, opening of Miami Gardens Drive east of US-1 and designation of City of Aventura Town Center to the east, <u>as well as</u> development of nonresidential uses to the east
Lot size does not exceed one acre	Lot size is 0.36±
Residential area not zoned, developed, or designated or face estate density residential	Residential properties are zoned and developed RU-1, not estate density residential.
Conversion of existing residence into office, addition of office to existing residence, or platted before March 25, 1991	Property platted in Plat Book 44, Page 71 (December 1945)

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Based on the foregoing, we believe the Department's recommendation in support of the district boundary change is logical and supported by the clear development of the community.

Should you have any questions regarding the above, or wish to discuss the information contained herein, please contact me at 305/350-2351.

Very truly yours,


Brian S. Adler

BSA:mp

CC: Maria Teresa Fojo
Jesus Davila
David Messinger
Stanley B. Price, Esq.

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June 1, 2004

VIA HAND DELIVERY

Ms. Donna Jacoby
Zoning Hearings Section
Miami-Dade County Department of
Planning and Zoning
111 N.W. First Street, 11th Floor
Miami, Florida 33128

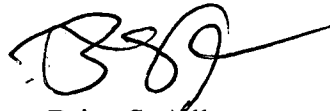
Re: Public Hearing Application No. Z04-57

Dear Ms. Jacoby:

Pursuant to your correspondence regarding the location of the dumpster in the front of the subject premises, attached are six revised signed and sealed site and landscape plans which relocate the dumpster to be behind the principal building, along with an 8 ½ x 11 copy of the subject plans.

Should you have any questions regarding the attached, or have any questions regarding the pending application, please contact me at 305/350-2351.

Very truly yours,



Brian S. Adler

BSA/mp
Enclosure

cc: David Messinger
Stanley B. Price, Esq.

RECEIVED
JUN 01 2004

ZONING HEARINGS SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

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Brian S. Adler, P.A.**Direct Dial: (305) 350-2351****Direct Fax: (305) 351-2206****Email: badler@bilzin.com**

April 20, 2004

Via Facsimile and U.S. Mail

Diane O'Quinn Williams, Director
Miami-Dade County Department of
Planning and Zoning
111 N.W. First Street, 11th Floor
Miami, Florida 33128

204-05
APR 21 2004
PLANNING SECTION
PLANNING AND ZONING DEPT.

Re: Public Hearing Application No. Z04-57

Dear Ms. O'Quinn Williams:

Please consider this our supplemental letter of intent in connection with the above-referenced public hearing application to clarify that we are seeking additional non-use variances related to the enclosure of the garbage dumpster.

Because N.E. 24th Avenue is the shorter of the roads upon which the property is situated, under the Miami-Dade County Code, N.E. 24th Avenue is the front of the property. However, as the Department noted, the building is oriented towards Miami Gardens Drive, which theoretically serves as the front of the building.

As you will note, the garbage dumpster enclosure is located at the southeast corner of the property. Because N.E. 24th Avenue is the front of the property based on the zoning code, we understand that the County considers the garbage dumpster an accessory structure located in front of the principal building. Additionally, the required front setback in an RU-5A district is 75 feet, and the required side setback is 7.5 feet from an interior lot. Therefore, we request the following additional non-use variances:

1. Non-use variance to permit an accessory structure to be located in front of a principal structure;
2. Non-use variance to permit an accessory structure to be setback 0 feet from the front setback property line, where 75 feet is required; and
3. Non-use variance to permit an accessory structure to be set back 0 feet from the interior side where 7.5 feet is required.

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We would appreciate if you would provide our office with a copy of the draft advertisement, as the application should be ready to be scheduled for public hearing. I attach the revised relevant page from the zoning application for you to review.

Thank you for your attention to the foregoing. As always, I may be reached at 305/350-2351.

Very truly yours,



Brian S. Adler

BSA/mp
Enclosure

cc: Donna Jacoby
David Messinger
Stanley B. Price, Esq.

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March 2, 2004

RECEIVED
MAR 3 - 2004

ZONING DEPARTMENT
MIAMI-DADE PLANNING AND ZONING DEPT.

BY 

Via Hand Delivery

Ms. Donna Jacoby
Zoning Hearings Section
Miami-Dade County Department of
Planning and Zoning
111 N.W. First Street, 11th Floor
Miami, Florida 33128

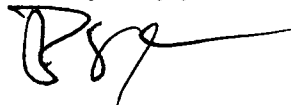
Re: Public Hearing Application No. Z04-57

Dear Ms. Jacoby:

Pursuant to our conversation, attached is replacement page 1 of the Letter of Intent, and a replacement page of the Application. I would appreciate if you would substitute the attached pages for those currently contained in your file.

Should you have any questions regarding the attached, please contact me at 305/350-2351.

Very truly yours,



Brian S. Adler

BSA/mp
Enclosure

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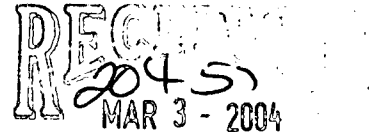
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February 18, 2004



ZONING HEARING SECTION
MIAMI-DADE PLANNING AND ZONING DEPT.

BY _____

VIA HAND DELIVERY

Diane O'Quinn Williams, Director
Department of Planning and Zoning
111 N.W. First Street, Suite 1220
Miami, FL 33128

Re: D&J Holdings

Dear Ms. O'Quinn Williams:

LETTER OF INTENT

Please consider this our formal letter of intent in connection with your Department's requirements for a zoning hearing application.

This firm represents D&J Holdings, the contract purchaser of the property located at 2390 N.E. 186th Street and the adjacent vacant lot.

The property consists of approximately 16,785± square feet fronting on Miami Gardens Drive east of the Oleta River. The property is currently zoned RU-1. The purpose of this application is to seek a district boundary change from RU-1 to RU-5A to allow the property to be developed with a proposed office building.

The property to the east is the subject of a pending application before the Miami-Dade County Department of Planning and Zoning seeking a similar district boundary change, and the properties to the east of the adjacent property continuing to Biscayne Boulevard are characterized by office and commercial uses with zoning districts ranging from RU-5A to BU-1A. Miami Gardens Drive adjacent to the property is a 100' wide state roadway, and has lost its desirability for use as residential property. The area located east of the Oleta River and Miami Gardens serves as a highly traveled thoroughfare into the Aventura area. The location of this site makes it undesirable for residential use.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ("CDMP")

The Property appears to be designated on the Miami-Dade County CDMP Future Land Use Map as low-medium density residential. Pursuant to pages I-29 to I-30 of the CDMP:

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Office uses smaller than five acres in size may be approved in areas designated as Residential Communities where other office, business or industrial use(s) which are not inconsistent with this plan already lawfully exist on the same block face. . . .

. . .

In addition, office uses may be approved along the frontage of major roadways in residential community areas where residences have become less desirable due to inadequate setbacks from roadway, traffic and noise, or due to a mixture of nonresidential uses or activities in the vicinity in accordance with the limitations as set forth in this paragraph. . . . Such limited office uses may be approved on such sites in residential community areas only where: a) the residential lot fronts directly on a Major Roadway as designated on the Land Use Plan map (Frontage roads are not eligible for consideration); b) the lot or site size does not exceed one acre; and c) the residential area is not zoned, developed or designated on the Land Use Plan map for Estate Density Residential, nor does subject frontage face such an Estate Density area. . . .

Emphasis added.

Therefore, the proposed office use of the property is consistent with the Comprehensive Development Master Plan, as the site is less than five acres in size, there would not be an unfavorable effect on the surrounding area, and the conversion of the property to residential use would not unduly burden transportation facilities or other county services or utilities.

Additionally, our client is requesting a non-use variance as to the front and rear setbacks to permit 20-foot setbacks where 25 feet setbacks are otherwise required. With regard to the front setback, the proposed is proposed to have a brick walkway with 20 feet of grass area. The grass and landscape buffer in front of the building more than adequately compensates for the 5 feet proposed setback variance. Further, by moving the building closer to the street, it helps define the roadway.

Also, the requested 20-foot rear setback does not impact the neighboring community, as our client is proposing a single-story building with a landscape and grass buffer from the building to the rear property line. While the rear setback in the RU-5A district is 25 feet, the required rear setback in commercial districts is 20 feet. The proposed zone change to RU-5A combined with the site layout that has parking on one side of the building rather than parking traversing the rear of the site, will have minimal impact on the adjacent properties.

Ms. Diane O'Quinn Williams

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Therefore, we respectfully request the Department's favorable review of the application. Should the Department have any questions or comments regarding the attached, please contact me at 305/350-2351.

Very truly yours,

A handwritten signature in black ink, appearing to read 'BSA', with a long horizontal flourish extending to the right.

Brian S. Adler

BSA:mp

Enclosure

cc: David Messinger